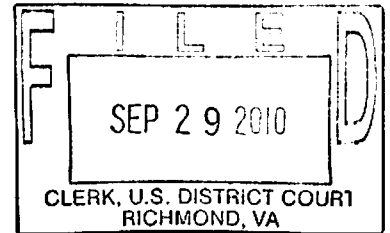


UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division



HAROLD SIMMONS,

Plaintiff,

v.

Civil Action No. 3:10CV687(JRS)

McGAUGHEY, REBER & ASSOCIATES,  
d/b/a DIVERSIFIED CREDIT SYSTEMS,

Serve: M. S. McGaughey  
Registered Agent  
2200 Jahan Trail  
Longview, Texas 75604

Defendant.

**COMPLAINT**

***I. INTRODUCTION***

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA") which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

***II. JURISDICTION AND VENUE***

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k(d), 28 U.S.C. §1337. Venue in this District is proper in that the defendant transacted business in this state and the Plaintiff chooses to bring this action here.

### ***III. PARTIES***

3. Plaintiff, Harold Simmons, is a natural person residing in Chesterfield, Virginia.

4. Defendant, McGaughey, Reber & Associates, Inc., d/a Diversified Credit Systems, ("Diversified") is a corporation, engaged in the business of collecting debts in this state with its principal place of business located in Longview, Texas. One of the principal purposes of Diversified is the collection of debts using the mails and telephone and it regularly attempts to collect debts alleged to be due another.

5. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6).

### ***IV. FACTUAL ALLEGATIONS***

6. In early to mid July 2010, Defendant first contacted Plaintiff by telephone. Defendant left a voice mail on his home phone stating that there was an urgent matter and Plaintiff must call Defendant.

7. Defendant wrote Plaintiff a letter dated July 9, 2010 stating that Plaintiff has an account that has been listed with Defendant for collection. The original creditor is listed as Menninger Clinic for an alleged debt of \$13,950. A copy is attached as **EXHIBIT A.**

8. Plaintiff's attorney sent a letter to Defendant dated July 29, 2010 requesting that Defendant provide verification of the alleged debt and to cease and desist

contact with Plaintiff. The letter was sent via Fed Ex overnight, was received on July 30, 2010 and required Defendant to sign for the letter. A copy of the letter, Fed Ex Airbill, and receipt are attached as **EXHIBIT B**.

9. On August 3, 2010 Defendant called Plaintiff at home and left a voice mail. The message stated it was an urgent message. The Plaintiff has been very embarrassed by the message Defendant left since he is concerned that his out of town guests heard the message.

10. Within the one year preceding the filing of this complaint, Defendant has contacted Plaintiff in an attempt to collect an alleged outstanding debt. Defendant's conduct violated the FDCPA in multiple ways, including but not limited to:

- a) Failing to cease communications after being directed to do so by his counsel §1692C(c);
- b) Failing to cease collection activities after receiving a written request for verification and before it verified the debt. §1692g(b);
- c) Communicating with the consumer after the debt collector knows the consumer is represented by an attorney §1692(b)(6).

#### ***V. FIRST CLAIM FOR RELIEF***

11. Plaintiff repeats, realleges, and incorporates by reference the preceding paragraphs.

12. Defendant violated the FDCPA as noted above.

13. As a result of the above violations of the FDCPA, the defendant is liable to the Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney fees.

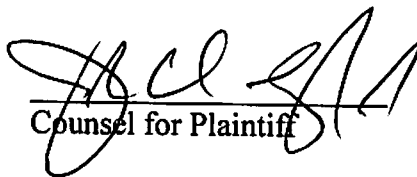
WHEREFORE, Plaintiff respectfully prays that judgment be entered against the defendant for the following:

- A. Statutory damages pursuant to 15 U.S.C. §1692k.
- B. Costs and reasonable attorney fees pursuant to 15 U.S.C. §1692k.
- C. For such other and further relief as may be just and proper.

**DEMAND FOR JURY TRIAL**

**Respectfully submitted,**

**HAROLD SIMMONS**



Counsel for Plaintiff

John Cole Gayle, Jr.  
VSB No. 018833  
The Consumer Law Group, P.C.  
5905 West Broad Street, Suite 303  
Richmond, Virginia 23230  
(804) 282-7900  
(804) 673-0316 fax  
jgayle@theconsumerlawgroup.com

Counsel for Plaintiff